

COVID-19: VAT EXEMPTION AND CUSTOMS REBATE ON IMPORTATION OF 'ESSENTIAL GOODS'

SARS issued a media release on Friday, 27 March 2020 (updated on 29 March) indicating that due to the measures put in place under the Disaster Management Act 57 of 2002, "essential goods" as defined in Regulation R.398 in Government Gazette No 43148 of 25 March 2020 will be subject to a VAT exemption and a full rebate of customs duties during the COVID-19 pandemic, under Item 412.11/00.00/01.00 of Schedule 1 to the Value Added Tax Act 89 of 1991 and rebate item 412.11 of Schedule 4 to the Customs and Excise Act 91 of 1964.

We note that this applies to customs VAT and customs duty on imported goods. The intention is to improve the cash position of businesses importing these 'essential goods'.

Clarification on the relief

Following SARS' announcement, we have been receiving many queries from members seeking clarification on this. Whilst we are awaiting clarification from SARS on the practical and other aspects, Gerhard Badenhorst, a member of SAICA's VAT Subcommittee has provided some insight in the interim.

Gerhard has noted that whilst the regulations list what are "essential" goods and services, it does not provide for the exemption. The VAT exemption is provided for in section 13(3) read with Schedule 1 to the VAT Act on the importation of goods - refer to Item 412.11/00.00/01.00 for more information, included below for ease of reference.

412.11/00.00/01.00 Goods imported—

- (a) for the relief of distress of persons in cases of famine or other national disaster;
- (b) under any technical assistance agreement; or
- (c) in terms of an obligation under any multilateral international agreement to which the Republic is a party:

Provided that—

- (i) the importation of any goods under this item shall be subject to a certificate issued by the International Trade Administration Commission and to such other conditions as may be agreed upon by

the Governments of the Republic, Botswana, Lesotho, Namibia and Swaziland; and

- (ii) goods imported under this item shall not be sold or disposed of to any party who is not entitled to any privileges under the item, or be removed to the area of Botswana, Lesotho, Namibia or Swaziland without the permission of the International Trade Administration Commission

A similar exemption from import duty is provided for in Schedule 4 to the Customs and Excise Act and the Schedules thereto.

The exemption only applies to the importation of “goods” as defined in the VAT Act and will not apply to services.

Further, in relation to the exemption, for the exemption to apply, an ITAC permit is required. Relevant guidelines which must be followed in order to obtain the ITAC permit, may be found on the [ITAC website](#). The ITAC permit must be held at the time the goods are cleared for home consumption, and does not apply retrospectively to goods already imported.

Although it normally takes two weeks for the permit to be issued, we understand that ITAC may give priority to the issue of the permits, which may be applied for by e-mail to one of the following e-mail addresses: csako@itac.org.za; lmaliaga@itac.org.za; kmzinjana@itac.org.za.

Further clarification required

There is uncertainty regarding par (ii) of the proviso to item 412.11/00.00/01.00, as to who exactly are parties entitled to the privileges under this item, or whether the exemption will apply to all imports of essential goods for which an ITAC permit is held on the basis that all persons and entities are entitled to the privileges under this item in view of the COVID-19 pandemic.

There are some who hold the view that this exemption also applies to the on-sale of these ‘essential’ goods. However, this does not appear to be the case.

We have requested SARS to clarify these aspects and we will update members as soon as we have received conclusive feedback.